

The Kentucky Board of Licensure and Certification for Dietitians and Nutritionists
February 18, 2009
10:00 a.m.

A special meeting of the Kentucky Board of Licensure and Certification for Dietitians and Nutritionists was conducted on Wednesday, February 18, 2009, at the Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601.

Members Present

Cheryl Bentley, Board Chair
Jane Faith, Secretary
Rita L. Dillman
Erin Eliassen
Carolyn Breeding
Mara Beth Womack

Occupations and Professions

Karen Lockett, Board Administrator
Frances Short, Executive Director
Barbara Rucker, Admin Section Supervisor

Office of the Attorney General

Michael West, Board Counsel

Members Absent

Leona Gilliam

Others in Attendance

Call to Order

Ms. Bentley called the meeting to order at 10:08 a.m.

Approval of Minutes

Ms. Bentley and Ms. Faith recommended amendments to the minutes dated November 12, 2009. Ms. Breeding made a motion to approve to minutes with the suggested amendments. Ms. Faith seconded the motion. Motion carried.

Approval of Financial Statement

Ms. Faith made a motion to approve the financial statement as submitted. Ms. Dillman seconded the motion. Motion carried.

Director's Report

Ms. Short informed the Board that the Office of Inspector General, in the Public Protection Cabinet, will perform investigations for the Board and the projected turnaround time is within thirty (30) days. The investigations will no longer be performed by the Kentucky Bureau of Investigations.

Complaint Committee Report

The complaint committee (Ms. Dillman and Ms. Eliassen), along with Board Counsel, met prior to the Board meeting. Ms. Dillman made the motion to the Board to dismiss complaint #0801 due to the ambiguity of the findings of the investigation. Ms. Faith seconded the motion. Ms. Breeding recused from voting. Motion carried. Complaint #0801 was dismissed by the Board.

Review Committee Report

Ms. Bentley asked the review committee (Ms. Faith and Ms. Gilliam) to report on how the newly established process is working with reviewing applications, reinstatements, and continuing education between board meetings. Ms. Bentley inquired about the process being used to provide the information to the review committee. Ms. Lockett and Ms. Faith communicated to the Board that Ms. Lockett is sending the information in PDF format via e-mail to the review committee. Ms. Faith further discussed the process of the newly formed committee regarding reviewing applications, reinstatements, and continuing education. Ms. Faith informed the board that she is pleased with the process of reviewing applications and continuing education. Ms. Faith advised the Board that the reinstatements are very time consuming. The Board discussed that this process expedites the approval of licenses. The Board discussed questions and concerns about the practice of reinstatement and the desire to improve the reinstatement requirements/process.

Legislative Committee Report

Ms. Dillman made a motion to allow the number of board members serving on the legislative committee to be changed from three (3) to two (2) board members. The legislative committee will address changes needed in regulations and statutes. Ms. Bentley informed the Board that she has communicated with Adrienne Grizzell to inquire if KDA would like to designate a KDA representative to participate with the legislative committee. Ms. Grizzell advised Ms. Bentley that KDA will provide her a name of a KDA liaison to serve in that capacity. Ms. Bentley requested that the name and contact information be provided to her when an decision has been reached so the KDA designee can be invited to a special board meeting that the Board plans to hold to focus on changes in the administrative regulations and statutes. The Board discussed plans to schedule a special meeting, to focus on changes needed in the administrative regulations and statutes, after a KDA representative has been determined. Ms. Eliassen seconded the motion. Motion carried.

Board Counsel Report

The Board asked Mr. West for an opinion regarding continuing education and fee requirements for reinstatement and if the CDR card may be accepted as evidence of continuing education. The Board discussed the e-mail communication between Ms. Bentley, Ms. Faith, and the Board Counsel regarding the questions about CDR card as evidence of continuing education and the current practices of the Board regarding continuing education requirements for reinstatement. Mr. West advised the Board that the opinion that the Board has been granted statutory authority to promulgate regulations and the board may choose the reinstatement requirements as the Board deems appropriate.

The Board asked Mr. West for a final opinion regarding whether the Board has authority to delegate to board members to approve license/certification outside board meetings. Mr. West informed the board that the Board may delegate authority to a committee, but the Board should agree to be absolutely bound by the recommendations of that committee and ratify those decisions at the next meeting. The Board has elected to pursue this for applications, reinstatements, renewals, and continuing education requests. The board has elected to not do this for audits because it would be too burdensome for a committee.

Mr. West recommended to the Board to redact social security numbers from documents before sending them to the review committee. Mr. West commented that the Board should protect licenses information from persons outside the Board.

Mr. West sent a letter to the Nutrition and You Health Center requesting information and the Board discussed the correspondence received from Ms. Lois J. Fowler, N.D. The Board determined that Ms. Fowler's qualifications do not meet the requirements of a Kentucky certified nutritionist or licensed dietitian. The Board made a decision for Board Counsel to mail a cease and desist letter and application to Ms. Fowler.

Mr. West discussed qualified immunity. No action was taken.

Mr. West informed the Board of counsel's recommendation to allow a license or certificate to be renewed while audits are incomplete, but reserving the right to revoke the license/certificate after the completion of the audit.

Mr. West advised the Board that the Board has been granted authority to determine the provisions through regulations for retired or inactive status, voluntary relinquishment of license and conditions for subsequent reinstatement, and fees-pertaining to SB158 that was passed during the 2008 General Session. This will be dealt with further during the special meeting (to focus on regulation and statute changes) that there are plans to schedule.

New Business

The Board reviewed the form letter for audits that allows a license or certificate to be renewed while audits are incomplete but reserving the right to revoke the license/certificate after the completion of the audit.

Ms. Mary Ann Myhre received a letter from the Board stating that her credential had expired. Ms. Myhre responded to the Board that she had retired and she will not be renewing her license at any time. No action was taken.

The Board received a letter from Ms. Katherine DiNovo stating that her Kentucky license expired because she moved to central Ohio and she requested guidance from the Board regarding her Kentucky license. Ms. Breeding made a motion to communicate to Ms. DiNovo that she will be subject to reinstatement requirements, if she chooses to practice in Kentucky. Ms. Eliassen seconded the motion. Motion carried.

Ms. Karla Kleeman Huey wrote the Board to request that her license be allowed to expire. Ms. Huey explained that she will be practicing as a clinical dietitian and remain a Registered Dietitian and she is employed by the federal government with the Department of Veterans Affairs. Ms. Huey informed the Board that state licensure is not required for her employment and she will not be practicing dietetics outside of that capacity. Ms. Huey informed the Board that she will reinstate her Kentucky license, if she should practice dietetics in Kentucky outside of federal employment. The Board was in agreement because in accordance KRS 310.070 she meets the exemption qualifications. No action was taken.

The Board received e-mail communication from Ms. Linda Rodgers regarding Brenda DeBord. Ms. Rodgers asked the board if they would consider holding a board meeting in December since the January meeting occurs after the sixty (60) day grace period, or consider sending notices to those being audited earlier so that the process could be completed before January 1. The Board feels the action to allow a license or certificate to be renewed while audits are incomplete, but reserving the right to revoke the license/certificate after the completion of the audit, will sufficiently address this matter. No action was taken.

The Board reviewed a letter sent to Ms. Donna Giovenco regarding reinstatement.

The Board received an e-mail from Ms. Betty Johnson regarding a person that allegedly is dispensing medical and nutritional advice via website but is not a qualified as a licensed dietitian. Ms. Dillman made a motion to contact Ms. Johnson to request more information and complete a complaint form before this can be investigated further. Ms. Womack seconded the motion. Motion carried.

The Board reviewed information regarding Mary Mahoney, with Purfoods, and her role in the practice of dietetics in Kentucky. Ms. Mahoney is a licensed dietitian in Iowa. The issue of interstate commerce was considered. The issue of her specific role in the practice of dietetics was considered. The recommendation of the Board Counsel was, based on the specific provisions of her practice, that she be licensed in Kentucky. Ms. Mahoney did submit application for a Kentucky license and was approved. The Board Counsel recommended that this type matter should be reviewed on a case-by-case situation.

Ms. Eliassen discussed that Ms. ~~Karina Christopher from BDA~~, requested that she present a legislative update at the upcoming Bluegrass District Dietetic Association meeting. The Board agreed for Ms. Eliassen to present a legislative update on behalf of the Board at the upcoming Bluegrass Dietetic Association meeting.

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Ms. Eliassen discussed that Ms. ~~Karina Christopher from BDA~~, requested a legislative update at the upcoming KDA FNCE in April 2009. The Board agreed for Ms. Bentley to present a legislative update on behalf of the Board at the upcoming KDA FNCE in April 2009. Ms. Dillman will check her work schedule to determine if she can be available as a backup to Ms. Bentley, if Ms. Bentley's schedule will not allow her to be present due to another potential obligation.

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The Board received an e-mail from Ms. Mary Pat Alfaro stating that she is an outpatient clinical manager from Cincinnati Children's Hospital Medical Center. Ms. Alfaro stated that she had spoken with one of their Audiology Managers and she informed Ms. Alfaro that with their Ohio license for Audiology that they are able to see patients in KY without a KY license if it is for emergency purposes-meaning that they do this less than

thirty (30) times with a 365 day period. The Board discussed there are no provisions for emergency practice such as this for dietitians in Kentucky.

Old Business

Ms. Rucker informed the board that the Human Resources contact at Humana has not responded regarding the employment status and contact information for Ms. Jane Gates. The Board discussed there has been ample time and the Board has not received the requested information from Humana. The Board discussed that efforts have not been successful in receiving the requested information from Humana regarding Ms. Gates and the Board does not have any other contact information for Ms. Gates. The Board made a decision for Board Counsel to mail a cease and desist letter in care of Human Resources at Humana. The Division of Occupations and Professions will keep the Board apprised of any response received regarding this matter.

Ms. Bentley asked Ms. Short to update the Board on any actions/finding regarding the database obstacles noted in the November 2008 minutes. Ms. Short informed the board that information is being gathered to report to the IT department for improvements in the database. Ms. Short informed the board that she had not received an estimate at this time, but will keep the board apprised on the status of the request by the Board.

Ms. Bentley asked Ms. Short to follow-up with the Legislative Research Commission to see if the obsolete address for the Division of Occupations and Professions has been changed to the current address through technical amendments in applicable administrative regulations. Ms. Short will follow-up with LRC to determine the status of these technical amendments.

Ms. Short, Ms. Bentley, and Mr. West attended the Administrative Regulation Review Subcommittee (ARRS) meeting held on February 9, 2009 on behalf of the Board. Ms. Bentley and Board Counsel updated the Board on the suggested amendments from the Legislative Research Commission (LRC) and the status of 201 KAR 33:020 (Renewal) and the outcome of the Administrative Regulation Review Subcommittee (ARRS) meeting on February 9, 2009. The Board discussed the benefits of continuing to send a cease and desist letter as a courtesy when a license or certificate has been voluntarily revoked for failure to renew within the sixty (60) day grace period, even though it is not required by statute and regulation. Ms. Breeding made a motion to send a courtesy cease and desist letter to licensee and certificate holders when their license or certificate has been voluntarily revoked due to failure to renew within the sixty (60) day grace period. Ms. Womack seconded the motion. Motion carried.

Ms. Eliassen confirmed that the draft language for 201 KAR 33:015 is correct as noted in the November 2008 minutes. The Board made a decision to incorporate this draft language in the administrative regulation when the Board focuses on upcoming changes to multiple administrative regulations.

The Board discussed the benefits of accepting all CDR prior-approved continuing professional education (CPE). Ms. Dillman made the motion that the Board accept all CDR prior-approved CPE. Ms. Breeding seconded the motion. The motion carried.

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Ms. Lockett informed the Board that the appreciation plaques have been mailed to the board members whose terms recently expired, Cynthia Matthews and Karen Gilliam.

Continuing Education Requests

Ms. Faith made a motion that the following continuing education program(s) and hours be **approved or deferred as specified below**:

- Kristin Anderson – Nutrition support of the critically ill: Practical issues – Approved for 1.0 hr.
- Margaret Curtis – Dietary Emergency Plans – Approved for 2.0 hours
- Margaret Curtis – Ky Association of Health care facilities 11/08 – Approved for 1.0 hr.
- Joyce Dunagan – KAG 2009 Conference: Active aging- A lifelong experience – Approved for 2.0 hours
- Amy Fennel – “Big Ethics: Challenges with the severely obese patient – Approved for 1.0 hr.

- Kerri Hayden – Renal nutrition specialty self-assessment stimulation – Approved for 5.0 hours
- Virginia Johnson – Diabetes, nutrition and CKD – Approved for 1.0 hr.
- Anna Jones – Meeting the challenges to improve cardiovascular outcomes – Approved for 5.0 hours
- Autumn Mastroinni – Vitamin D & Chronic disease risk – Approved 1.0 hr.
- Linda Rush – The medical center's women conference – Deferred
- Suzanne Seeley – Vitamin D & Chronic disease risk – Approved for 1.0 hr.
- Tara Shelton – “Big ethics: Challenges with the severely obese patient – Approved for 1.0 hr.
- Lisa Tucker – Nutrition in Bariatrics – Approved for 1.0 hr.

Ms. Womack seconded the motion. Motion carried

Applications for Licensure

Ms. Faith made a motion to **approve** the following applications for licensure:

Lisa M. Baloun, Megan Gough, Emily Greenhill, Jenna M. Harrett, Laura E. Harris, Erin L. Hurst, Ann Marie Karlovich, Judy Lawson, Jennifer Yu Lee, Kelly R. Loy, Mary K. Mahoney, Kathy Yae Murakami, James Nicely, Julie Peterson, Irene L. Preston, Julia F. Snell and Allison Vinyard. Ms. Womack seconded the motion. Motion carried.

Applications for Reinstatement

Ms. Faith made a motion to **approve** the following applications for reinstatement: Janet Bennett, Edwina Burge-Forrest, Donna Giovenco, Valerie G-Horton. Included in the motion was to **deny** the following: Tracie M. Winder and Rebecca Erdman. Ms. Womack seconded the motion. Motion carried.

Audit Renewal Reviews

Ms. Dillman made a motion to **approve** the following audit renewals: Margaret A. Adkins, David S. Berringer, Genelle W. Hix, Stephanie A. Mears, Ngohide G. Okpokho, Jennifer Probus, Linda Seese, Brenda K. Zahn and Laura A. Allen. Included in the motion was to **deny** the following: Abby Cunningham, Brenda Debord, Sherry Golightly, Lynn Pendley and Sandra Phillips. Ms. Womack seconded the motion. Motion carried.

Scheduled Meetings

The next meeting will be on Wednesday, March 25, 2009 beginning at 10:00 a.m. at the Division of Occupations and Professions located at 911 Leawood Drive, Frankfort, Kentucky.

Approval for Travel and Per Diem

Ms. Faith made a motion to approve travel and per diem for this Board meeting; to approve expenses for Cheryl Bentley for representing the Board at the ARRS meeting held on February 9, 2009; Erin Eliassen to present a presentation on behalf of the Board at upcoming Bluegrass Dietetic Association meeting; and a Board member to present on behalf of the Board at the KDA FNCE in April 2009. Ms. Dillman seconded the motion. Motion carried.

Adjournment

Ms. Faith made a motion that the meeting be adjourned. Ms. Dillman seconded the motion. The meeting was adjourned at 2:35 p.m.

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Cheryl Bentley, Chairperson
Minutes Prepared by
Karen Lockett, Board Administrator
February 18, 2009

